

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
Defendant.)
_____)

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Videotaped Deposition of DANIEL MORRILL,
taken at 333 Twin Dolphin Drive, Suite
400, Redwood Shores, California, commencing
at 9:43 a.m., Tuesday, July 12, 2011,
before Leslie Rockwood, RPR, CSR No. 3462.

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Highly Confidential - Attorneys' Eyes Only

<p>1 THE WITNESS: Yes, I understand that that was 2 a goal.</p> <p>3 Q. BY MR. MUINO: Okay.</p> <p>4 A. Some of the classes.</p> <p>5 MR. MUINO: Okay, I'm going to mark as the 6 next exhibit an email chain from Barry Schnitt, 7 S-C-H-N-I-T-T, to Andy Rubin, and it copies Dan Morrill, 8 among others. It's dated November 10th, 2007. 9 (Exhibit 224 was marked for identification.)</p> <p>10 Q. BY MR. MUINO: This is quite a long email 11 chain. Let me tell you which portions I want to ask you 12 about. If you look at the pages with the number in the 13 lower right-hand corner that ends with 561, 560, 559, and 14 558, proceeding backwards like that.</p> <p>15 A. So you're starting with 560?</p> <p>16 Q. Yeah, 561.</p> <p>17 A. 561. Okay.</p> <p>18 Q. Uh-huh.</p> <p>19 A. And --</p> <p>20 Q. And if you just take a look and first tell me 21 if you recall this email chain generally.</p> <p>22 A. Yes, I have read through the pages you 23 mentioned, and I do recall this exchange.</p> <p>24 Q. Okay. So I want to start on the page that's 25 marked 561 in the lower right-hand corner. Those are the</p> <p style="text-align: right;">Page 70</p>	<p>1 preparing the site that would go along with the SDK 2 launch. And so on the 5th, we had -- and Andy Rubin, I 3 believe specifically it was, stated that Android would be 4 an open platform and would be open source.</p> <p>5 And so I, being aware of that, was expressing 6 concern that we would not be discussing open source when 7 we launched the SDK site.</p> <p>8 Q. Okay. Was it important -- did you believe it 9 was important to promote Android as open source at this 10 time period?</p> <p>11 A. Android was not -- the source code was not 12 planned to be released on the 12th, but given that we had 13 just referred to it, you know, several days prior, I felt 14 that it was important to clarify, you know, the open 15 source situation.</p> <p>16 Q. Okay. Why wasn't Android open sourced at 17 this point in time?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you know if -- strike that.</p> <p>20 What was Google's plan for generating profits 21 from Open Source Android?</p> <p>22 MR. WEINGAERTNER: Objection to form.</p> <p>23 Q. BY MR. MUINO: To your knowledge?</p> <p>24 A. I don't know. They -- what they -- I can 25 tell you what they told us.</p> <p style="text-align: right;">Page 72</p>
<p>1 last three digits of the page.</p> <p>2 A. Okay.</p> <p>3 Q. And about maybe a quarter of the way down, 4 there is a section that you wrote. And it starts by 5 saying: "I disagree and say we definitely need to have 6 the term 'open source' on this page."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Do you recall what the page was that was 10 being discussed here?</p> <p>11 A. If -- I believe -- I'm not a hundred percent 12 sure -- but I believe that this was referring to the -- 13 you know, what would be known as the landing page of the 14 SDK site.</p> <p>15 Q. The Android SDK site?</p> <p>16 A. Yes, that's correct.</p> <p>17 Q. And why did you think it was important to 18 have the term "open source" on that landing page?</p> <p>19 A. When we -- when Google made the 20 announcement -- well, hold on one moment. Let me -- 21 okay. So this was November 10th. We announced Android 22 publicly on November 5th, and the first version of the 23 SDK was intended to be released and planned to be 24 released on the 12th.</p> <p>25 So the context of this exchange is we were</p> <p style="text-align: right;">Page 71</p>	<p>1 Q. Uh-huh.</p> <p>2 A. Which is consistent with the public message 3 that they gave on this topic.</p> <p>4 Q. Yes. What did they tell you?</p> <p>5 A. That -- I don't recall the exact phrasing, 6 but essentially the message repeated frequently was that 7 the more people use the internet, the more they do 8 searches, and the more they do searches, the more likely 9 they are to use Google to do so and therefore create 10 revenue for Google through advertising.</p> <p>11 Q. Okay. So Google expected to profit from 12 Android by increasing the number of people who were doing 13 searches on Google's search engine?</p> <p>14 MR. WEINGAERTNER: Objection to form.</p> <p>15 THE WITNESS: That is the stated -- that's 16 what we were told.</p> <p>17 Q. BY MR. MUINO: Okay. And that increase in 18 revenue would come from search advertising revenues. Is 19 that what you were told?</p> <p>20 A. That's what we were told.</p> <p>21 Q. Okay. Okay. So I want to flip back in that 22 document to the page that's marked 559. And I want to 23 look at the portion at the bottom. This is the portion 24 that you wrote. In particular, I want to look at the 25 second paragraph, the last sentence of the second</p> <p style="text-align: right;">Page 73</p>